

REMARKS

Status of the Claims

Claims 2, 21, 25, 29, 33, 37, and 41 are canceled. Claims 10-12 and 14-19 are withdrawn. Claims 1, 3-4, 20, 22-23, and 46 are currently amended. Upon entry of this Amendment, claims 1, 3-4, 10-12, 14-20, 22-24, 26-28, 30-32, 34-36, 38-40, and 44-49 are pending and elected claims 1, 3-4, 20, 22-24, 26-28, 30-32, 34-36, 38-40, and 44-49 should be examined.

Claim Objections

Claims 1-4 and 22-23 have been objected to because of alleged language informalities. See Office Action of October 21, 2003, page 2. As there are numerous objections, each is addressed in order. The PTO is thanked for the helpful suggestions.

Claim 1 is objected to because “and confers an ability to grow in...lysozyme to a microorganism belonging to *Corynebacterium glutamicum*” is allegedly difficult to understand. Office Action, page 2. The present version of claim 1 avoids this issue.

Additionally, claim 1 is objected to because it allegedly lacks a period. Office Action, page 2. The present version of claim 1 avoids this issue.

Claim 22 is objected to because “*Corynebacterium glutamicum*” is not italicized. Office Action, page 2. The present version of claim 22 avoids this issue.

Claims 22-23 are objected to because “ ‘stain’ should presumably be ‘strain’.” Office Action, page 2. The present version of claims 22-23 avoid this issue.

Claims 25-27, 29-31, and 37-39 are objected to because they allegedly “depend from objected base claims 2-4.” Office Action, page 3. As the present version of the claims are believed to avoid the language informalities noted by the Examiner, dependent claims 25-27, 29-31, and 37-39 also avoid this issue.

Claims 40-41 and 44-45 are objected to for alleged improper format. Office Action, page 3. Applicants submit that improper multiple dependencies of claims 40-41 and 44-45 were amended in the Supplemental Amendment of May 21, 2003. Applicants respectfully submit that the present version of the claims avoids these issues. Accordingly, the present version of the claims avoids this issue.

Applicants thank the Examiner for helpful suggestions.

Rejections- 35 U.S.C. § 112, first paragraph (Enablement)

Claims 1-2, 20-21, 24-25, 28-29, 32-33, 36-37, and 40-41 are rejected under 35 U.S.C. § 112, first paragraph, for alleged lack of enablement. Office Action, pages 3-4. Specifically, the PTO takes the position that the specification “does not reasonably provide enablement for any DNA which encodes a mutated protein derived from SEQ ID NO: 2, or a DNA which encodes a protein which has a certain degree of sequence similarity to SEQ ID NO: 2 that upon expression confers lysozyme insensitivity to strains that are lysozyme sensitive.” Office Action, page 4. As the present version of the claims avoids this issue, the rejection should be withdrawn.

Rejections- 35 U.S.C. § 112, Second Paragraph

Claims 20-23, 40-41, and 44-49 are rejected under 35 U.S.C. § 112, second paragraph, for alleged indefiniteness. As there are numerous indefiniteness rejections, each is addressed and enumerated as in the Office Action, page 5.

Claims 20-23 are rejected on the grounds that it is allegedly not clear that “lysozyme sensitivity of the strain is prior to transformation.” Office Action, page 5. Moreover, dependent claims 40-41 and 44-45 are included in this rejection. As the present version of claims 20-23 avoids this issue, the rejection of claims 20-23, and their dependent claims 40-41 and 44-45, should be withdrawn.

Claim 46 is rejected on the grounds that “it is not clear what is intended by a nucleotide corresponding to nt 271-1593 of SEQ ID NO: 1.” Office Action, page 5.

Additionally, dependent claims 47-49 are included in this rejections. In an effort to clarify “corresponding to,” the present version of claim 46 recites “of.” Accordingly, the rejection of claims 46-49 should be withdrawn.

CONCLUSION

Applicants respectfully request that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing the claims in condition for allowance. Applicants submit that the proposed claim amendments neither raise new issues nor necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

Finally, Applicants submit that the entry of the amendment would place the application in better form for appeal.


If there are any questions concerning this application, the Examiner is courteously invited to contact the undersigned counsel.

Respectfully submitted,

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